GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – Commercial Tax Department – Certain irregularities noticed against Sri M.Adinarayana Murthy, formerly Commercial Tax Officer-II, Kadapa (Now retired) in passing assessment orders for 2007-08, 2008-09 & 2009-10 in case of M/s.Bharat Heavy Electricals Ltd. - Refund of TDS amount claimed – Forfeited – W.P. No.4060/2012, 4065 and 4204/2012 filed by dealer – Allowed – Departmental action initiated under Rule 20 of Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 read with Rule 9 of APRPR 1980 - Article of charges framed – Written Statement of Defence – Considered - Further action dropped – Orders – Issued.

REVENUE (VIGILANCE-II) DEPARTMENT

G.O.Rt.No.854 Dated : 14-09-2015
Read the following:

1.From CCT, AP, Hyd.Lr.No.V1/1621/2012, dated 06-12-2012.
2.From CCT, AP, Hyd.Lr.No.V1/1621/2012, dated 16-03-2015.
3.G.O.Ms.No.156, Revenue (Vig.II) Dept., dated.05-05-2015.
4.G.O.Rt.No.383, Revenue (Vig.II) Dept., dated.05-05-2015.
5.Written Statement of Defence dt.22-06-2015 of Sri M. Adinarayana Murthy, CTO, Kadapa (now Retd.) received through CCT vide No. V1/1621/2012, dated 13-07-2015.

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O R D E R :

Whereas the Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad has stated that Sri M.Adinarayana Murthy, while working as Commercial Tax Officer-II, Kadapa vide proceedings dated 08-03-2011 has forfeited the tax liable to be refunded in the case of M/s. Bharat Heavy Electrical Limited site office, Yerraguntla Mandla, Kadapa District for the assessment years 2007-08, 2008-09 & 2009-10 in gross violation of the findings of the Appellate Deputy Commissioner, Kurnool in proceedings dated 27-10-2011 and against the said orders, the said firm has filed Writ Petition Nos.4060, 4065 and 4204 of 2012 and the Hon`ble Andhra Pradesh High Court has allowed the Writ Petitions vide orders dated 31-07-2012 and awarded costs of Rs.10,000/- in each Writ Petition (total Rs.30,000/-) payable to the petitioner by the State and requested the Government to initiate departmental action against the above Charged Officer under Andhra Pradesh Revised Pension Rules, 1980, vide reference 1st read above, as he was retired from service on 30-9-2012.

2. And whereas the Government after examining the above proposal have accorded sanction to initiate disciplinary action against Sri M.Adinarayana Murthy, for the irregularity committed by him while working as Commercial Tax Officer-II, Kadapa (now Retd) under Andhra Pradesh Revised Pension Rules, 1980, vide reference 3rd read above and framed the following Charge under Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991, vide reference 4th read above.

Charge : The Charged Officer while working as Commercial Tax Officer, kadapa-II Circle (now Retd.) has grossly violated the directions of the Appellate Deputy Commissioner, Kurnool and passed orders carelessly exercising his jurisdictions for the Tax period 2009-10, 2008-09 and 2007-08 in respect of M/s Bharat Heavy Electricals Limited, Kadapa. The Hon'ble High Court of Andhra Pradesh held the action of the retired officer as bad in law and awarded costs of Rs.30,000/- in their common judgment dated 31-07-2012 in W.P.No.4060/2012, 4065 and 4204/2012 and the Government of Andhra Pradesh was compelled to pay the costs of Rs.30,000/- imposed by the Hon'ble High Court of Andhra Pradesh for misconduct of the officer thereby the Government incurred unnecessary expenditure. This inaction of Commercial Tax Officer has aggravated the situation and lead to serious indiscipline on the part of the officer.

(p.t.o)

3. And whereas, Sri M.Adinarayana Murthy, Commercial Tax Officer, (now Retd.) vide reference 5th cited has submitted the Written Statement of Defence stating that he has forfeited the amount of Rs.2,97,63,362/- in respect of M/s.Bharat Heavy Electrical Limited site office, Yerraguntla Mandla, Kadapa District for 2007-08, 2008-09 & 2009-10 in terms of rule 18 (3) (b) of Andhra Pradesh Value Added Tax Rules, 2005, vide three proceedings dated 31-01-2011 and in appeal, the Appellate Deputy Commissioner, Kurnool has set aside the said assessment orders observing that the contract is purely a labor and service contract not involving any transfer of material and as such no tax liability is attracted on the turnover and that rule 18 (3) (b) of the said Rules is not applicable and remanded the matter to pass fresh orders considering the objections of the firm, vide proceedings dated 27-10-2011. Accordingly he has issued a notice to firm to file objections, but it has not filed any objections, hence confirmed the earlier forfeiture orders passed by him vide, proceedings dated 23-01-2012. Against the said orders, the firm has filed Writ Petitions 4060/2012, 4204/2012 and 4065/2012 and Hon`ble Court has allowed the Writ Petitions and awarded costs of Rs.30,000/- vide orders dated 23-01-2012. The Charged Officer has further stated that he has forfeited the tax amount to protect the interest of the Government and that he has not committed any irregularity, therefore he is ready to pay the amount of Rs.30,000/- i.e., the costs awarded by the Hon`ble High Court and requested to drop further action against him.

4. The Government have examined the matter carefully and observed that the Charged Officer with a bona-fide intention has tried to protect the interest of the Government and in the process he hauled up by the Court and since he is willing to repay the amount of Rs.30,000/- the costs awarded by the Hon`ble High Court, therefore Government have decided to permit the Accused Order to remit the amount of Rs.30,000/- in lum-sum awarded by the Hon'ble Court and let off from the Article of Charges framed against him.

5. Accordingly Government hereby direct, Sri M. Adinarayana Murthy, Commercial Tax Officer, (now Retd.) to remit the amount of Rs.30,000/- in lum-sum, the costs awarded by the Hon`ble High Court, into appropriate Government Head of Account within 30 days from the date of receipt of this orders and also order to drop further action on the disciplinary proceedings initiated against him for the above irregularity, subject to payment of the above amount within the stipulated.

6. The Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AJEYA KALLAM
SPECIAL CHIEF SECRETARY TO GOVERNEMNT

To
Sri M.Adinarayana Murthy, Commercial Tax Officer, (retd.,)
through the Commissioner, Commercial Taxes Department, AP, Hyderabad.
The Commissioner, Commercial Taxes Department, AP, Hyderabad.
Copy to:
The Accountant General, A.P., Hyderabad.
The Director of Treasuries & Accounts, A.P., Hyderabad.
The Deputy Commissioner, Kadapa (YSR) District.
The Revenue (CT.I) Department.
SF/SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER